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Ronald J. Friedman

Hearing Date: November 5, 2018  
Time: 1:30 p.m.

Objections Due: October 29, 2018  
Time: 4:00 p.m.

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re:

DOWLING COLLEGE f/d/b/a DOWLING  
INSTITUTE f/d/b/a DOWLING COLLEGE  
ALUMNI ASSOCIATION f/d/b/a CECOM  
a/k/a DOWLING COLLEGE, INC.,

Chapter 11

Case No. 16-75545 (REG)

Debtor.  
-----X

**NOTICE OF HEARING ON  
COMMITTEE'S MOTION TO AMEND FINAL ORDER  
(I) AUTHORIZING DEBTOR TO OBTAIN POSTPETITION  
FINANCING AND USE CASH COLLATERAL, (II) GRANTING  
ADEQUATE PROTECTION, AND (III) GRANTING CERTAIN RELATED RELIEF**

**PLEASE TAKE NOTICE** that the Official Committee of Unsecured Creditors (the "Committee") of Dowling College, *f/d/b/a* Dowling Institute, *f/d/b/a* Dowling College Alumni Association, *f/d/b/a* Cecom, *a/k/a* Dowling College, Inc., the above-captioned debtor and debtor in possession (the "Debtor"), filed a motion (the "Motion") seeking entry of an order pursuant to sections 105(a), 363, and 364 of title 11, United States Code (the "Bankruptcy Code"), for an order amending the Court's Final Order (I) Authorizing Debtor to Obtain Postpetition Financing and Use Cash Collateral, (II) Granting Adequate Protection, and (III) Granting Certain Related Relief (ECF Doc. No. 367), and will move before the Honorable Robert E. Grossman, United States Bankruptcy Judge, United States Bankruptcy Court for the Eastern District of New York, Alfonse M. D'Amato U.S. Courthouse, 290 Federal Plaza, Central Islip, New York, on **November 5, 2018 at 1:30 p.m.** (the "**Hearing**"), or as soon thereafter as counsel can be heard, concerning the relief sought in the Motion.

**PLEASE TAKE FURTHER NOTICE**, that objections to the Motion, if any, must be filed with the Court electronically in accordance with General Order 559 by registered users of the Court's electronic case filing system and, by all other parties in interest, mailed to the Clerk of the United States Bankruptcy Court for the Eastern District of New York, Alfonse M. D'Amato U.S. Courthouse, 290 Federal Plaza, Central Islip,

New York, with a hard copy delivered directly to the Chambers of the Honorable Robert E. Grossman, and served in accordance with General Order 559 or other form upon: (i) attorneys for the Committee, SilvermanAcampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York, 11753, Attn: Anthony C. Acampora; (ii) the Office of the United States Trustee for Region 2, 560 Federal Plaza, Central Islip, New York 11722, Attn: Stan Yang; (iii) counsel to the Debtor, Klestadt Winters Jureller Southard & Stevens, LLP, 200 West 41st Street, 17th Floor, New York, New York 10036, Attn: Sean C. Southard; and (iv) counsel to the Debtor's material prepetition and post-petition secured lenders: (a) Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo, P.C., One Financial Center, Boston, Massachusetts 02111, Attn: P. Miyoko Sato and Ian A. Hammel, (b) Schulte Roth & Zabel LLP, 919 Third Avenue, New York, New York 10022, Attn: Brian D. Pfeiffer and Neil S. Begley, (c) Certilman Balin Adler & Hyman, LLP, 90 Merrick Avenue, 9th Floor, East Meadow, NY 11554, Attn: Richard J. McCord, Esq. and Thomas J. McNamara, and (d) Garfunkel Wild, P.C., 111 Great Neck Road, Great Neck, NY 11021, Attn: Adam T. Berkowitz, so as to be filed and received by no later than **October 29, 2018 at 4:00 p.m.**

**PLEASE TAKE FURTHER NOTICE**, that the Hearing may be adjourned without further notice other than the announcement of such adjournment in open Court, or the filing of a notice of adjournment on the docket of the Debtor's case.

Dated: Jericho, New York  
October 18, 2018

**SILVERMANACAMPORA LLP**  
Attorneys for the Committee

By: /s/ Ronald J. Friedman  
Ronald J. Friedman  
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Ronald J. Friedman  
Brian Powers

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 11

DOWLING COLLEGE f/d/b/a DOWLING  
INSTITUTE f/d/b/a DOWLING COLLEGE  
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**COMMITTEE’S MOTION TO AMEND FINAL ORDER  
(I) AUTHORIZING DEBTOR TO OBTAIN POSTPETITION  
FINANCING AND USE CASH COLLATERAL, (II) GRANTING  
ADEQUATE PROTECTION, AND (III) GRANTING CERTAIN RELATED RELIEF**

The Official Committee of Unsecured Creditors (the “**Committee**”) of Dowling College f/d/b/a Dowling Institute f/d/b/a Dowling College Alumni Association f/d/b/a Cecom a/k/a Dowling College, Inc. (the “**Debtor**”), by and through its counsel, SilvermanAcampora LLP, submits its motion, pursuant to sections 105(a), 363, and 364 of title 11, United States Code (the “**Bankruptcy Code**”), for an order amending the Court’s Final Order (I) Authorizing Debtor to Obtain Postpetition Financing and Use Cash Collateral, (II) Granting Adequate Protection, and (III) Granting Certain Related Relief (ECF Doc. No. 367) (the “**Final DIP Order**”), and respectfully sets forth and represents as follows:

**BACKGROUND**

1. On November 28, 2016, the Debtor filed a voluntary petition under chapter 11 of the Bankruptcy Code in this Court.

2. On December 9, 2016, the Office of the U.S. Trustee filed a *Notice of Appointment of Creditors' Committee* (ECF Doc. No. 85) appointing Ultimate Power Inc., Linda Ardito, and Lori Zaikowski to the Committee. The Committee selected SilvermanAcampora LLP as its counsel.

3. After its appointment, the Committee, through counsel, engaged in extensive negotiations with the Debtor and the Debtor's prepetition secured lenders (the "**Prepetition Secured Lenders**") and, together with the Debtor and the Committee, the "**Parties**") with respect to the structure of a chapter 11 plan in the Debtor's case and a carve-out from the proceeds of the sale of substantially all of the Debtor's assets (the "**Proceeds**") for the benefit of the Debtor's unsecured creditors. As a result of those negotiations, the Parties consensually presented the Final DIP Order to the Court for approval, and the Court entered the Final DIP Order on July 14, 2017.

4. The Final DIP Order, among other things, approves a settlement term sheet (the "**Term Sheet**") between the Parties whereby the Parties agreed to a distribution scheme (the "**Original Distribution Scheme**") with respect to the Proceeds. At the time of the entry of the Final DIP Order, due largely to the success of the Debtor's sale of its Oakdale campus, the Parties believed that the Original Distribution Scheme (along with the estate's potential claims against various third parties) would be sufficient to permit the Debtor to confirm a chapter 11 plan which would provide for a meaningful recovery to its general unsecured creditors.

5. Unfortunately, after the sale of the Debtor's Brookhaven campus was concluded, the parties determined that the Original Distribution Scheme would not provide the Debtor's estate with sufficient funds to pay all priority unsecured claims in full on the effective date of the plan, which is required to confirm a chapter 11 plan. Accordingly, the Committee again engaged in extensive negotiations with the Prepetition Secured Lenders and the Debtor with respect to an

amendment to the Original Distribution Scheme.

**THE AMENDED CARVE-OUT**

6. As a result of the Parties' negotiations, the Parties have reached an agreement with respect to the terms of a proposed Stipulation and Order (the "**Stipulation and Order**") which would amend the Term Sheet annexed to the Final DIP Order and the Original Distribution Scheme. A copy of the Stipulation and Order is annexed hereto as **Exhibit A**.

7. Specifically, the Stipulation and Order provides that, in addition to the Prepetition Secured Lenders' agreement in the Final DIP Order and Term Sheet to satisfy one-half of all unsecured priority claims against the Debtor's estate, the Prepetition Secured Lenders shall also satisfy an additional portion of such unsecured priority claims to the extent that the amounts allocated to unsecured creditors under the Final DIP Order and Term Sheet are not sufficient to satisfy the unsecured creditors' one-half share of such obligation.

8. Additionally, the Stipulation and Order provides that, notwithstanding anything to the contrary in the Final DIP Order or the Term Sheet, after payment in full of all direct costs of sale of the Debtor's assets, the Debtor's estate shall retain \$300,000, which shall be used by the Parties to fund a liquidating trust associated with the Debtor's chapter 11 plan.

9. In exchange for the foregoing, the Parties have agreed that the Prepetition Secured Lenders will be entitled to share in distributions on account of their deficiency claims once the aggregate dividend to general unsecured creditors exceeds five (5%) percent, rather than the ten (10%) percent provided for in the Final DIP Order and the Term Sheet.

10. The Committee believes that the proposed amendments to the Final DIP Order and the Term Sheet contained in the Stipulation and Order provide a substantial benefit to the Debtor's estate in addition to the Original Distribution Scheme, are more than reasonable under the circumstances, and should be approved by the Court.

**WHEREFORE**, based on the foregoing, the Committee respectfully requests that the Court enter the Stipulation and Order, and grant the Committee such other and further relief as the Court deems just and proper.

Dated: Jericho, New York  
October 18, 2018

**SILVERMANACAMPORA LLP**  
Counsel to the Official Committee  
of Unsecured Creditors

By: s/ Ronald J. Friedman  
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